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August 7, 2019

Via ECF and Email

Ms. Angelica Deniz
United States Probation Officer
U.S. District Court, Eastern District of New York
147 Pierrepont Street
Brooklyn, New York 11201

Re: Richard Luthmann
Case No: 17 Cr. 664 (JBW)

Dear Ms. Deniz:

I represent defendant Richard Luthmann who is scheduled for sentencing on August 13, 2019 at 12:45 p.m. I received Mr. Luthmann's Pre-Sentence Report (PSR) on July 31, 2019 and set forth below are my objections and comments:

Pages 5-6; Paragraphs 11-12

We respectfully object to the allegations that Mr. Luthmann claimed that George Padula III ("Padula") had family members with high ranking organized crime connections and that said connections could be used to settle disputes.

Page 6; Paragraph 13

We respectfully object to the claim that the companies Mr. Luthmann registered with the New York Department of State were fraudulent.

Page 6; Paragraph 14

We respectfully object to the mischaracterization that Mr. Luthmann agreed to take part in a fraud where Co-Conspirator 1 would take deposits from victims and then not provide them with any of the scrap metal.

Page 7; Paragraphs 21-25

We respectfully object to the mischaracterization made in this paragraph that Mr. Luthmann in any way suggested that Co-Conspirator 1 and Padula use the individual referred to as the Client, as the President of the Omni Metal Corporation, or to commit the Omni transactions in the name of the Client.

Page 9; Paragraph 35

We respectfully object to the mischaracterization that Mr. Luthmann never provided Co-Conspirator 1 with billing records or an accounting of outstanding fees. Copies of such records and invoices were seized by the Government during search warrant execution.

Page 10; Paragraph 36

We respectfully deny that Mr. Luthmann directed Padula to visit Co-Conspirator 1 to demand or collect a debt and at no time did Padula give Mr. Luthmann any money in the name of Co-Conspirator 1.

Page 10; Paragraph 37

We respectfully object to the mischaracterization that Mr. Luthmann directed Co-Conspirator 1 to pay money to Padula or Michael Beck or that a "sit down" occurred to resolve the conflict.

Page 10; Paragraph 38

We respectfully object to the mischaracterization that Mr. Luthmann was well aware that Padula and Michael Beck intended to kidnap Co-Conspirator 1.

Page 11; Paragraph 42

We respectfully object to the mischaracterization that Mr. Luthmann recruited the Client and that he opened fraudulent bank accounts in the Client's name.

Pages 11-12; Paragraph 43

We respectfully object to the finding of a 2-level adjustment, as per Sentencing Guideline §3B1.3, for Mr. Luthmann's role in the instant offense. After negotiating the Government and the Defense agreed that the defendant's role in the instant offense did not warrant an adjustment.

Page 13; Paragraph 57

We respectfully object to the finding of a 2-level adjustment, as per Sentencing Guideline §2B1.1(b)(10), for using sophisticated means in the instant offense. After negotiating the Government and the Defense agreed that the instant offense did not warrant an adjustment.

Page 14; Paragraph 69

Because there is a discrepancy as to the adjustment warranted for Mr. Luthmann's role or the use of sophisticated means, it is necessary to object to the Total Offense Level found by the Probation Department. We maintain that Mr. Luthmann's Total Offense Level is a 26 instead of the 27 found.

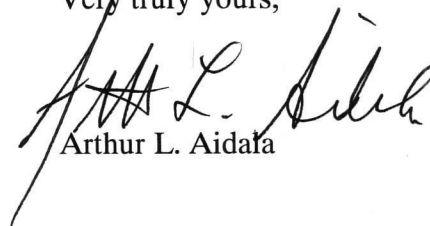
Pages 15-16; Paragraph 75

The Probation Report mistakenly states that Mr. Luthmann pled guilty to charges pending in Richmond County Supreme Court. In fact Mr. Luthmann pled not guilty and the case is still open and the charges are pending.

Page 16; Paragraph 77

We respectfully object to the Probation report containing statements made by a witness regarding charges that were dismissed years earlier.

Very truly yours,



Arthur L. Aidala

cc: James P. McDonald, Esq.
Assistant United States Attorney

Moir Kim Penza, Esq.
Assistant United States Attorney